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Food and Agricultural Import Regulations and Standards

Nutrition & Health Claims - Status of EU Proposal 2006

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Report Highlights:

Adoption of the EU proposal on nutrition and health claims: chronology of events.

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Brussels USEU [BE2]
[E3]

Nutrition and Health Claims – Status of the EU Proposal

In July 2003, the European Commission tabled a proposal to harmonize the use of nutrition and health claims across the EU. Only nutrition and health claims that comply with the provisions of the proposed regulation would be allowed on foods marketed in the EU. The proposal has to be adopted jointly by the Council and the European Parliament (EP) under the co-decision procedure (see table).

The following controversial articles in the proposal triggered a heated dispute between the food industry, NGO's, consumer groups, the European Parliament and the Council: Article 4 proposes nutritional profiles for foods that would be allowed to carry claims. Claims would not be allowed to promote foods with high levels of certain nutrients such as fat, salt or sugar. Articles 10 and 12-17 propose a prior authorization system for all health claims. Well-accepted claims such as "calcium is good for bones" would be placed on a positive list. New claims, i.e. claiming a health effect that was not previously known, must be scientifically assessed by the European Food Safety Authority (EFSA) and approved for use. Producers wishing to use new health claims have to submit scientific studies that are relevant to that particular claim.

At first reading in May 2005, the European Parliament voted (with a majority of only 10 votes) to completely remove Article 4 concerning the establishment of nutrient profiles and to introduce a simple notification procedure for new claims instead of the burdensome authorization procedure proposed by the Commission. Consumer groups, NGO's and the Commission reacted with great disappointment to the EP's vote saying that nutritional profiles are a key tool in combating obesity and in providing accurate information to consumers. In December 2005, the Council adopted a common position on the outcome of the EP's first reading vote in which they unanimously backed the proposed nutrient profiling.

On March 23, 2006, the EP's Environment, Public Health and Food Safety Committee adopted a second-reading report, which is the penultimate stage in finalizing the second reading. The report re-instates Article 4 on nutritional profiles but in a compromised form. Claims would be allowed on foods not meeting the profiles provided that reference is made "in close proximity to the claim" to the ingredients that fail to meet the profiles. This means that a dairy product with a high sugar content could make a low-fat claim provided the sugar content is declared in "close proximity" to the wording "low-fat". While the Council wanted an authorization procedure in its common position, the EP suggests using a combined approach: an authorization procedure for reduction of disease risk claims and a notification procedure for other health claims. The EP report also suggests excluding brand names or trademarks which imply a nutritional advantage from the scope of the regulation while the Commission proposes a transitional period of 10 years for products already on the market before January 1, 2005 to comply with the new rules.

The second reading vote will take place at the EP's plenary meeting in mid-May. A qualified majority of 367 votes will be needed to vote through any amendment to the Council's common position. If the Council cannot accept the EP's position, the proposal will go through the conciliation procedure.

Co-Decision Procedure	Status of Nutrition & Health Claims Proposal
First Reading	
Commission presents proposal to Parliament and the Council simultaneously	July 17, 2003
Parliament adopts amendments and submits them to Council	May 26, 2005
If Council agrees with the outcome of Parliament's reading - legislative text is adopted	N/A
Second Reading	
If the Council does not accept Parliament's first reading vote, it draws up a common position.	December 8, 2005
Parliament may approve the common position or take no decision - legislative text is approved in the form of the common position.	N/A
Parliament may table amendments to the common position: 1) Either the Council approves the amendments - legislative text is adopted. 2) Or the Council rejects them and a Conciliation Committee (25 Member of Parliament and 25 Member of the Council) is convened to seek to reconcile the positions. 3) Parliament may reject the common position by an absolute majority of its Members - legislative text is rejected.	Second reading vote in the EP plenary session in May 2006
Third Reading	
The Conciliation Committee adopts a "joint text" based on the common position and Parliament's second reading amendments.	
If Council and Parliament approve the "joint text" - act is adopted.	
If the Conciliation Committee cannot agree on a "joint text", or if Parliament or Council does not approve it - act is not adopted.	

For more information on the co-decision procedure see http://europa.eu.int/comm/codecision/stepbystep/diagram_en.htm

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Related reports from USEU Brussels:

Report Number	Title	Date Released
E36045	Food Labeling Review	3/14/2006
E23172	EU Proposal on Nutrition and Health Claims Notified to the WTO	8/29/2003
E23136	Commission Proposal on Nutrition and Health Claims	7/18/2003
These reports can be accessed through our website http://useu.usmission.gov/agri or through the FAS website http://www.fas.usda.gov/scriptsw/attacherep/default.asp .		